

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

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FISCAL IMPACT STATEMENT

LS 6020

BILL NUMBER: HB 1429

NOTE PREPARED: Apr 9, 2007

BILL AMENDED: Mar 29, 2007

SUBJECT: Attorney's Fees in Medicaid Lien Collection Cases.

FIRST AUTHOR: Rep. Ulmer

FIRST SPONSOR: Sen. Steele

BILL STATUS: As Passed Senate

FUNDS AFFECTED: ☒ **GENERAL**
DEDICATED
☒ **FEDERAL**

IMPACT: State

Summary of Legislation: This bill increases the amount of attorney's fees required to be paid by the Office of Medicaid Policy and Planning in Medicaid lien collection cases involving the recovery from an insurer or a person who injured a Medicaid recipient. The bill specifies that the increased attorney's fee provisions do not apply to certain liens placed on a Medicaid recipient's real property. The bill authorizes the Office of Medicaid Policy and Planning to contract with an attorney to obtain or enforce certain liens placed on a Medicaid recipient's real property and caps attorney's fees in these cases.

Effective Date: July 1, 2007.

Explanation of State Expenditures: (Revised) The bill would cap attorney's fees paid by the Family and Social Services Administration for contracted services to obtain or enforce Medicaid liens placed on a Medicaid recipient's real property. FSSA reports that Medicaid estate recoveries are currently handled in-house and that no attorneys are contracted to perform this function. The fiscal impact of this provision would depend on the extent to which the agency may contract for these services in the future and the contracted terms of payment.

Explanation of State Revenues: This bill increases the amount required to be paid for attorneys' fees for subrogation lien recoveries. Increasing the attorneys' fees would reduce the amount of the recovery available to the state Medicaid Program and the federal government. The impact on the state General Fund for FY 2008 is estimated to range from \$752,000 to as high as \$1.03 M, depending on the growth rate of recoveries and the mix of the fees actually paid.

Background Information: The Office of Medicaid Policy and Planning (OMPP) reports that this statutory

change applies to the fees paid for attorneys in personal injury lawsuits and settlements involving Medicaid recipients. It does not apply to estate recovery or liens against real property. OMPP reported actual recovery amounts, after payment of attorney fees, of \$2.51 M in FY 2004, \$2.96 M in FY 2005, and \$3.41 M in FY 2006.

The bill provides that attorneys' fees due on recoveries made without initiating legal proceedings would be 25%, rather than 7.5% as under current statute. Attorney fees for recoveries made after initiating legal proceedings would be 33 1/3%, rather than the current 10%. The additional attorney expense will reduce the total amount of recoveries available to Medicaid. The Medicaid Program is jointly funded by the state and federal governments. The state share of program expenditures and any subsequent recovery of expenditures is approximately 38%.

If recoveries grow at the average rate that occurred between FY 2004 and FY 2006, or 16.6%, the reduced revenues to the state General Fund in FY 2008 are estimated to be a minimum of \$752,000. The maximum General Fund impact for FY 2008 is estimated to be \$1.03 M.

Explanation of Local Expenditures:

Explanation of Local Revenues:

State Agencies Affected: Office of Medicaid Policy and Planning.

Local Agencies Affected:

Information Sources: Amy Davis, Legislative Liaison for FSSA.

Fiscal Analyst: Kathy Norris, 317-234-1360.